



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 21, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0134

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained - Unfounded
# 2	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained - Unfounded
# 2	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1) was unprofessional by yelling and punching his car window. The Complainant also alleged that Named Employee #2 (NE#2)—a parking enforcement officer—was unprofessional by yelling and laughing when the Complainant requested NE#1's name and badge number. Finally, the Complainant alleged that the named employees refused to provide their names and badge numbers.

ADMINISTRATIVE NOTE:

On August 4, 2023, the Office of Inspector General certified this case as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant filed an OPA complaint stating that he was driving near the intersection of Edgar Martinez Drive South and 1st Avenue. The Complainant stated that NE#1 directed traffic. The Complainant believed that NE#1 was directing him toward "what appeared to be a barricaded road." The Complainant wrote that NE#1 yelled at him, approached his vehicle, and "began punching my window at my face." The Complainant wrote that he feared for his



safety and drove off. The Complainant wrote that his window did not close properly after that. The Complainant stated he reapproached the intersection and encountered NE#2, who also directed traffic. The Complainant wrote that he asked NE#2 for her badge number and NE#1's badge number, but NE#2 said she was "busy." The Complainant repeated the request, and NE#2 said, "We can discuss it later after we're done here. You're more than welcome to wait for an hour." The Complainant stated that an unidentified officer repeatedly told him to move and that NE#2 ignored at least ten requests for her badge number, saying NE#2 "smiled and turned away." The Complainant stated he requested a supervisor, who came and provided the requested information. The Complainant stated his window damage cost \$100 to "investigate" and \$300 to \$1,500 to repair. The Complainant provided a picture of the alleged damage, noting it was "difficult to see from the picture, but the window is not in its correct position."

OPA opened an investigation, including reviewing the OPA complaint, documents and a photo of the Complainant's car window, body-worn video (BWV), and Google search results concerning wind noise in Tesla Model 3 models. OPA also interviewed the Complainant, NE#1, and NE#2.

a. Complainant's Interview, Documentation, and Photograph

OPA interviewed the Complainant.

The Complainant said he left an event at Lumen Field and drove westbound on S. Royal Brougham Way,¹ approaching 1st Avenue. The Complainant said he tried to turn left, but traffic caused his car to block the intersection.

The Complainant said NE#1 approached him, yelling. The Complainant said traffic advanced enough for him to clear the intersection. The Complainant said he asked NE#1 whether he could proceed, but NE#1 hit or punched his driver-side window. The Complainant said he panicked and did not complete the turn. Instead, he drove westbound on Royal Brougham and parked.

The Complainant said he, his girlfriend, and his son exited the vehicle and returned to the intersection. The Complainant said he approached NE#2 and asked for her and NE#1's badge numbers. The Complainant alleged that NE#2 refused to provide the information, saying she would discuss the incident in an hour when she finished her shift. The Complainant said he only requested NE#2's badge number and did not want to discuss anything else, but NE#2 refused it and ordered him onto the sidewalk. The Complainant said an unidentified parking enforcement officer yelled for him to return to the sidewalk.

The Complainant said he requested a supervisor, and Witness Supervisor #1 (WS#1) arrived. The Complainant said WS#1 politely gave him a business card with NE#1 and NE#2 badge numbers.

The Complainant said he drove a Tesla Model 3 Performance. The Complainant said NE#1's punch moved the window out of alignment and caused a gap between the window and the frame. The Complainant said the repair would have cost several hundred dollars, but Tesla covered it under warranty. The Complainant noted the Tesla records video, but he did not think to activate that feature.

¹ In his Complaint, the Complainant first wrote he was on Edgar Martinez Drive, but wrote Royal Brougham later in his narrative.



The Complainant provided an invoice from Tesla that stated:

Description Of Work
Concern: Customer states: Wind Noise - Drivers window does not seal. Produces a lot of wind noise like the window is partially open.
Performed Front Left Door Glass Adjustment.
Correction: Door Glass - Front - LH (Adjust)
Pay Type: Goodwill - Service

The Complainant also provided the following picture (cropped for anonymization) of the alleged damage:



b. BWV

OPA searched NE#1's BWV but did not find a related video for the date of the incident. PEOs, like NE#2, do not have BWV.



OPA reviewed WS#1's BWV, showing:

Traffic was heavy, and at least three SPD employees directed cars at the intersection. WS#1 contacted the Complainant at the northwest corner. The Complainant said NE#1 punched his window. WS#1 provided NE#1's name and badge number. The Complainant also said he requested NE#2's badge number, but "It doesn't really matter, she's not involved." WS#1 provided NE#2's name but said he did not know her badge number.

c. OPA Interview – NE#1

OPA interviewed NE#1 on June 7, 2023. NE#1 said he was assigned to the Gun Violence Reduction Unit but worked on an overtime traffic control detail on the date in question.

NE#1 said there were two events at Lumen Field and T-Mobile Park with approximately thirty-five thousand attendees. NE#1 said he controlled heavy traffic at the intersection and oversaw parking enforcement officers and less experienced police officers. NE#1 said he prioritized keeping traffic flowing from Lumen Garage southbound on 1st Avenue.

NE#1 said 1st Avenue southbound frequently backed up due to access to the freeway, which he could not allow since it would block the intersection and create a hazard for crossing pedestrians. NE#1 said he counted cars to prevent them from "blocking the box." NE#1 said that when 1st Avenue backed up, he forced vehicles westbound, where they could also turn southbound. To do that, NE#1 stepped in front of vehicles and directed them with hand signals. He also shouted directions when necessary. NE#1 said his last resort was approaching a vehicle to explain through their window.

During this incident, NE#1 said traffic had backed up 1st Avenue, so he needed to guide vehicles westbound. NE#1 said the Complainant's turn signal was on, indicating a turn onto 1st Avenue. NE#1 said the Complainant continued to turn southbound after NE#1 directed him westbound. NE#1 said he stepped between the Complainant's vehicle and the crosswalk and told the Complainant to go westbound. NE#1 said the Complainant aggressively pointed south. NE#1 said the Complainant was "blocking the box," forcing other cars to drive around him. NE#1 said the Complainant failed to obey a traffic officer, a misdemeanor.

NE#1 said he approached the Complainant's car to speak with him, but the window was up. NE#1 said the Complainant was yelling, but he could not make out what was said:

I knocked loudly on his window, which is what I said we routinely do. I don't know if I used my left hand or my right hand, but I knocked hard on his window and pointed him to go the other way. Now, this knock was in no way forceful. It definitely wasn't a punch. I know the accusation is that I punched his window. One thing I could say I've been a defensive tactics instructor for the department for many, many, many years. I box, one of the things we teach, is hard to soft, soft to hard. I would never hard- your knuckles are hard in a punch. I would never punch a hard



object because you're going to break your hand. I've never punched a window. I've knocked on windows with my knuckles but never punched one because that's just stupid.

NE#1 said he directed the Complainant westbound, but the Complainant flipped him off and drove away.

NE#1 said the Complainant returned with another male. NE#1 described the Complainant as aggressively speaking with a parking enforcement officer. NE#1 heard the PEO say what sounded like, "I can talk with you later, but we can't leave our posts." NE#1 said he requested a supervisor. NE#1 denied hearing the Complainant request his name or badge number but explained it was unsafe for him to provide it then anyway.

d. OPA Interview – NE#2

OPA interviewed NE#2 on May 31, 2023.

NE#2 said that on the date of in question, she controlled traffic at Lumen Field. NE#2 said she managed pedestrian crosswalks while NE#1 controlled the intersection.

NE#2 said she saw NE#1 knocking or tapping on the Complainant's window. NE#2 said the Complainant then drove up to her, rolled down his window, and demanded NE#1's name and badge number. NE#2 recalled saying she did not know, and the Complainant responded by asking for her name and badge number. NE#2 said she told the Complainant she would provide it after she finished directing traffic.

NE#2 said the Complainant returned and requested her and NE#1's information. NE#2 said she told the Complainant she would write it down when she finished. NE#2 said the Complainant requested a supervisor, which NE#1 requested.

NE#2 noted that she could have shouted her information at the Complainant, but the intersection was loud. NE#2 said shouting was less professional than writing it, and engaging the Complainant was hindering her performance and creating a safety issue.

NE#2 denied laughing at the Complainant or otherwise behaving unprofessionally. NE#2 said she has a nervous smile sometimes but denied contemptuous or derogatory behavior.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested

The Complainant alleged that NE#1 failed to identify himself during a department-related activity.



SPD employees engaged in department-related activities must “provide their name and Department serial number verbally, or in writing if requested.” SPD Policy 5.001-POL-7. However, an SPD employee does not need to immediately identify themselves if doing so would hinder a police function or where there is a safety consideration. *Id.*

NE#1 denied hearing the Complainant’s request for his information. Moreover, the Complainant told OPA he asked NE#2, not NE#1 directly. Further, had NE#1 heard the request, he was not required to stop directing traffic and answer the Complainant immediately. Finally, NE#1 radioed for a supervisor, leading to WS#1 arriving and fulfilling the request.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 was unprofessional by yelling and striking his window.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.* Employees must also “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.* “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” *Id.* Last, while on duty or in uniform, employees will not publicly ridicule: “the Department or its policies, other Department employees, other law enforcement agencies, the criminal justice system or police profession. This applies where such expression is defamatory, obscene, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth.” *Id.*

NE#1 directed heavy traffic at night after two large events. He wore high-visibility clothing and was identifiable as a police officer. Drivers at the intersection were required to obey NE#1’s lawful orders. See SMC § 11.59.010 (Obedience to peace officers, flaggers, and firefighters). The Complainant—whether due to a misunderstanding or disobedience—did not comply with NE#1’s order to continue west on Royal Brougham.

The Complainant and NE#1 disagreed about the forcefulness of NE#1’s window strike. NE#1 called it a loud, hard knock with his knuckles. Conversely, the Complainant wrote that NE#1 “began punching my window at my face” and later said NE#1 hit or punched the window. NE#2, who witnessed the incident, said NE#1 knocked or tapped the window.

While a loud knock may be a curt, even startling, way to get a driver’s attention, OPA does not find it out of policy under the circumstances. NE#1 attempted to gain the Complainant’s compliance visually and audibly without success. Loudly knocking was a reasonable next option and unlikely to undermine public trust.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #2 - Allegation #1

5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested

The Complainant alleged NE#2 failed to identify herself and NE#1.

The SPD policy requiring officers to identify themselves provides exceptions where doing so would hinder a police function or create a safety issue. Here, NE#2 and NE#1 actively managed an intersection with heavy vehicle and pedestrian traffic. It would have hindered police functions and created a safety issue for either officer to redirect their attention to fulfilling the Complainant's request.

It is true that NE#2 could have shouted her name and badge number at the Complainant. But, as NE#2 explained, that was unlikely to be effective due to street noise. Instead, NE#2 agreed to comply when it was safe.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #2

5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

The Complainant alleged NE#2 was unprofessional by mocking or laughing at him.

The Complainant's belief that NE#2 was unprofessional was primarily based on her refusal to accommodate him on demand. The Complainant alleged that NE#2 "smiled and turned away" and "actively laugh[ed]" when he requested a supervisor.

NE#2 admitted to sometimes having a nervous smile. Here, even taking the Complainant's allegations as true, he approached NE#2—a PEO entirely uninvolved in his interaction with NE#1—to request names and badge numbers. NE#2 was controlling the intersection when he engaged her. She told him she was "busy." The Complainant said he repeatedly asked NE#2 for the information, despite her instructing him to wait. It was not unreasonable for NE#2 to have a nervous smile after the Complainant repeatedly requested the same information, following her into and across a busy intersection. Finally, WS#1's BWV depicted the Complainant saying that NE#2 was "not involved."

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**